

Kennedy, Ronald G.

S/N: 09/474,418

REMARKS

Claims 1-24 are pending in the present application. In the Office Action mailed December 2, 2004, the Examiner rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over Slayton et al. (USP 6,440,071) in view of Jago et al. (USP 5,935,607) and further in view of Wood et al. (USP 5,715,823). The Examiner also rejected claims 1-24 under 35 U.S.C. §103(a) as being unpatentable over Slayton et al. in view of Jago et al. and further in view of Friz et al. (USP 5,786,994). Claims 1-24 were provisionally rejected under the judicially created doctrine of double patenting over claims 1-44 of Application No. 09/199,506.

The Examiner rejected claims 1-24 as unpatentable over Slayton et al. in view of Jago et al. and further in view of Wood et al. and, alternatively, as unpatentable over Slayton et al. in view of Jago et al. and further in view of Friz et al. However, as evidenced by the Declaration under 37 C.F.R. 1.131 and associated three-page attachment labeled Exhibit A filed with the Response mailed July 20, 2004, Slayton et al. is not prior art to the pending application. Therefore, the current rejections relying on Slayton et al. cannot be sustained and no substantive basis of rejection remains.

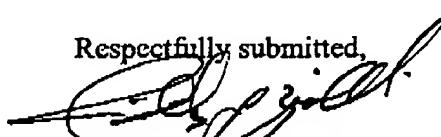
Applicant notes that the Examiner provisionally rejected claims 1-24 under the judicially created doctrine of double patenting over claims 1-44 of Application No. 09/199,506. MPEP §804(I)(B) states that “[i]f the ‘provisional’ double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent.” Since no basis of rejection remains, Applicant requests withdrawal of the provisional double patenting rejection and a timely issuance of a Notice of Allowance.

In light of the foregoing, Applicant respectfully believes that the present application is in condition for allowance. Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-24.

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Applicant appreciates the Examiner's consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved or require further explanation if the same would further prosecution of this case.

Respectfully submitted,  
  
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Dated: January 25, 2005  
Attorney Docket No. Old: GEM-30834  
New: GEMS8081.022

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